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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,637	08/19/2003	Bary W. Wilson	50005-148	4430

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EXAMINER

MARC COLEMAN, MARTHE Y

ART UNIT PAPER NUMBER

3661

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/643,637

**Applicant(s)**

WILSON ET AL.

**Examiner**

Marthe Y Marc-Coleman

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-15 and 34 is/are allowed.
- 6) ☒ Claim(s) 16, 17 and 27-33 is/are rejected.
- 7) ☒ Claim(s) 18-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is response to Application Serial No. 10/643,637 in which claims 1-33 are presented for examination.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 16, 17, and 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breed (U.S. Pub. No. 2001/0002451) in view of

In regard to claims 16 and 17, Breed discloses a method for monitoring a vehicles, comprising :

- acquiring two or more operating parameters of a vehicle using one or more sensors on the vehicle (see [0094], [0139], [0144], [0145], [0149], [0165-0169] and [0121]);
- wirelessly transmitting a second signal representative of a second number of the operating parameters via cellular telephone connection to a remote receiver, where the second number is at least one (see [0180])

While Breed discloses a remote subsystem in [0202], Breed fails to specifically disclose details information about the remote subsystem

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Chou et al. discloses processing the operating parameters with a remote processor in communication with the remote receiver (see Figs. 1, 3-5).

At the time of the invention, it would have been obvious to one of the ordinary skill in the art to utilize the remote service center of Chou et al. with the diagnostic system of Breed because such combination would enhance the diagnostic system of the vehicle by detecting a potential malfunction early and transferring it to the remote station for assistance, repair or maintenance.

In regard to claims 27-33, Breed discloses a system comprising:

- a vehicle subsystem mounted on a vehicle, comprising:
- one or more sensors collectively detecting two or more operating parameters of the vehicle (see [0094], [0139], [0144], [0145], [0149], [0165-0169] and [0121]);
- a first receiver for wirelessly receiving a first set of signals that are collectively representative of the two or more operating parameters (see [0182], [0202] and claim 14;
- a first transmitter and a first processor in communication with the transmitter to process the two or more operating parameters(see [0202] and [0182]); and
- a second signal, wireless transmitted by the first transmitter, that is representative of at least one of the two or more operating parameters(see [0180], [0187], [0202] and claim 14);

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While Breed discloses a remote subsystem in [0202], Breed fails to specifically disclose details information about the remote subsystem.

Chou et al., on the other hand, discloses and a remote subsystem comprising:

- a second receive for receiving the second signal; a second processor in communication with the second receiver; and a memory in communication with the second processor, the memory being encoded with programming instruction executable by the second processor to analyze the at least one of the two or more operating parameters (see Figs. 1-5)

At the time of the invention, it would have been obvious to one of the ordinary skill in the art to utilize the remote service center of Chou et al. with the diagnostic system of Breed because such combination would enhance the diagnostic system of the vehicle by detecting a potential malfunction early and transferring it to the remote station for assistance, repair or maintenance.

***Allowable Subject Matter***

4. Claims 10-15, 34 and 2-9 are allowed.
5. Claims 18-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments concerning claims 16 and 17 have been fully considered but they are not persuasive.

Applicant argued that "no suggestions presented in the art to utilize the remote service center of Chou et al. with the diagnostic system of Breed".

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, detecting early enough, and transferring data to a remote station will enhance the system because obtaining such data early would increase the chance of diminishing possible damage to some vehicle parameters thereby increasing vehicle safety in a cost effective manner.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marthe Y Marc-Coleman whose telephone number is (703) 305-4970. The examiner can normally be reached on Monday-Thursday from 9:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tomas G Black can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Patent Examiner

*Marthe Y. Marc-Coleman*

Marthe Marc-Coleman

June 15, 2004